

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

BRYAN P. BONHAM,

Case No. 3:18-cv-00242-MMD-WGC

14

Plaintiff.

ORDER

R. BAKER, *et al.*,

Defendants.

11 Pro se Plaintiff Bryan P. Bonham brought this action under 42 U.S.C. § 1983.
12 (ECF No. 4.) During a settlement conference on March 25, 2021, Bonham verbally
13 agreed to dismiss this action with prejudice. (ECF No. 78.) U.S. Magistrate Judge
14 William G. Cobb ordered the parties to sign a stipulation for dismissal and file it with
15 the Court no later than April 26, 2021. (*Id.*) When the deadline passed and no
16 stipulation was filed, the Court ordered the parties to show cause by May 18, 2021,
17 why the case should not be dismissed. (ECF No. 79.) That deadline has now
18 expired, and Plaintiff has not responded to the Court's order.¹

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring

¹Defendants filed a response stating that they are not opposed to dismissal. (ECF No. 80.)

1 amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
2 (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court
3 apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
4 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779
5 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to
6 comply with local rules).

7 In determining whether to dismiss an action for lack of prosecution, failure to
8 obey a court order, or failure to comply with local rules, the court must consider
9 several factors: (1) the public's interest in expeditious resolution of litigation; (2) the
10 court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the
11 public policy favoring disposition of cases on their merits; and (5) the availability of
12 less drastic alternatives. *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-
13 24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

14 In the instant case, the Court finds that the first two factors, the public's
15 interest in expeditiously resolving this litigation and the Court's interest in managing
16 the docket, weigh in favor of dismissal. The third factor, risk of prejudice to
17 defendant, also weighs in favor of dismissal, since a presumption of injury arises
18 from the occurrence of unreasonable delay in filing a pleading ordered by the court
19 or prosecuting an action. See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir.
20 1976). The fourth factor—public policy favoring disposition of cases on their merits—
21 is greatly outweighed by the factors in favor of dismissal discussed herein. Finally, a
22 court's warning to a party that his failure to obey the court's order will result in
23 dismissal satisfies the "consideration of alternatives" requirement. *Ferdik*, 963 F.2d
24 at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. Judge Cobb's
25 order requiring the parties to file a stipulation for dismissal indicated: "in the event
26 Pro Se Plaintiff does not sign the stipulation for dismissal, this record of the
27 proceedings will be referred to the Chief District Judge for dismissal of the case."

1 (ECF No. 78.) Thus, Plaintiff had adequate warning that dismissal would result from
2 his noncompliance with the Court's order to file a stipulation. Further, the Court gave
3 Bonham an opportunity to explain why his case should not be dismissed. (ECF No.
4 79.) Bonham did not file a response to the order to show cause.

5 It is therefore ordered that this action is dismissed with prejudice based on
6 Plaintiff's failure to file a stipulation to dismiss or otherwise show cause why his
7 statements at the settlement conference did not constitute an intent to dismiss his
8 case.

9 The Clerk of Court is directed to close this case.

10 DATED THIS 24th Day of May 2021.

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14 MIRANDA M. DU
15 CHIEF UNITED STATES DISTRICT JUDGE
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